

The Honorable Chief Judge David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL D. ETIENNE, JOSEPH J. TYSON,
THOMAS A. DALY, FRANK R.
SCHUSTER, EUSEBIO L. ELIZONDO,
GARY F. LAZZERONI, GARY M.
ZENDER, ROBERT PEARSON,
LUTAKOME NSUBUGA, JESÚS
MARISCAL, MICHAEL KELLY,

Plaintiffs,

v.

ROBERT W. FERGUSON, in his official capacity as Governor of Washington, NICHOLAS W. BROWN, in his official capacity as Attorney General of Washington, LEESA MANION, in her official capacity as King County Prosecuting Attorney, LARRY HASKELL, in his official capacity as Spokane County Prosecuting Attorney, JOSEPH BRUSIC, in his official capacity as Yakima County Prosecuting Attorney, RANDY FLYCKT, in his official capacity as Adams County Prosecuting Attorney, CURT LIEDKIE, in his official capacity as Asotin County Prosecuting Attorney, ERIC EISINGER, in his official capacity as Benton County Prosecuting Attorney, ROBERT SEALBY, in his official capacity as Chelan County Prosecuting Attorney, MARK NICHOLS, in his official

Case No. 3:25-cv-05461-DGE

**DECLARATION OF GARY M.
ZENDER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

1 capacity as Clallam County Prosecuting
2 Attorney, TONY GOLIK, in his official
3 Capacity as Clark County Prosecuting
4 Attorney, DALE SLACK, in his official
5 capacity as Columbia County Prosecuting
6 Attorney, RYAN JURVAKAINEN, in his
7 official capacity as Cowlitz County
8 Prosecuting Attorney, GORDON EDGAR, in
9 his official capacity as Douglas County
10 Prosecuting Attorney, MICHAEL GOLDEN,
11 in his official capacity as Ferry County
12 Prosecuting Attorney, SHAWN SANT, in his
13 official capacity as Franklin County
14 Prosecuting Attorney, MATHEW
15 NEWBERG, in his official capacity as
16 Garfield County Prosecuting Attorney,
17 KEVIN McCRAE, in his official capacity as
18 Grant County Prosecuting Attorney, NORMA
19 TILLOTSON, in her official capacity as Grays
20 Harbor County Prosecuting Attorney,
21 GREGORY BANKS, in his official capacity
22 as Island County Prosecuting Attorney,
23 JAMES KENNEDY, in his official capacity as
24 Jefferson County Prosecuting Attorney,
25 CHAD ENRIGHT, in his official capacity as
26 Kitsap County Prosecuting Attorney,
27 GREGORY ZEMPEL, in his official capacity
28 as Kittitas County Prosecuting Attorney,
DAVID QUESNEL, in his official capacity as
Klickitat County Prosecuting Attorney,
JONATHAN MEYER, in his official capacity
as Lewis County Prosecuting Attorney, TY
ALBERTSON, in his official capacity as
Lincoln County Prosecuting Attorney,
MICHAEL DORCY, in his official capacity as
Mason County Prosecuting Attorney,
ALBERT LIN, in his official capacity as
Okanogan County Prosecuting Attorney,
MICHAEL ROTHMAN, in his official
capacity as Pacific County Prosecuting
Attorney, DOLLY HUNT, in her official
Capacity as Pend Orielle County Prosecuting
Attorney, MARY ROBNETT, in her official
capacity as Pierce County Prosecuting
Attorney, AMY VIRA, in her official capacity
as San Juan County Prosecuting Attorney,
RICH WEYRICH, in his official Capacity as

1 Skagit County Prosecuting Attorney, ADAM
2 KICK, in his official capacity as Skamania
3 County Prosecuting Attorney, JASON
4 CUMMINGS, in his official capacity as
5 Snohomish County Prosecuting Attorney,
6 ERIKA GEORGE, in her official capacity as
7 Stevens County Prosecuting Attorney, JON
8 TUNHEIM, in his official capacity as
9 Thurston County Prosecuting Attorney, DAN
10 BIGELOW, in his official capacity as
Wahkiakum County Prosecuting Attorney,
GABE ACOSTA, in his official capacity as
Walla Walla County Prosecuting Attorney,
ERIC RICHEY, in his official capacity as
Whatcom County Prosecuting Attorney, and
DENIS TRACY, in his official capacity as
Whitman County Prosecuting Attorney,

11 Defendants.
12

1 I, Gary M. Zender, hereby declare as follows:

2 1. I am over the age of eighteen and competent to make this declaration. I make this
 3 declaration based on personal knowledge about which I am competent to testify.

4 2. I am a priest incardinated in the Roman Catholic Archdiocese of Seattle, Vicar for
 5 Clergy of the Archdiocese, and priest in residence at Parish Family #27, which includes St. Louise
 6 de Marillac and St. Madeleine Sophie Churches in Bellevue. As Vicar General for the Archdiocese,
 7 I am a liaison between Archbishop Paul D. Etienne and the Archdiocesan clergy, make
 8 recommendations to him on clergy assignments, and assist him in supporting the well-being of the
 9 Archdiocesan clergy. As a priest of the Archdiocese of Seattle, I have the faculties to, and do, hear
 10 the Sacrament of Confession throughout the Archdiocese of Seattle

11 3. I have reviewed the declaration of Archbishop Paul D. Etienne, including the
 12 articulation of the teachings of the Roman Catholic Church regarding the Sacrament of Confession
 13 and the sacramental seal. I sincerely believe in the Roman Catholic faith and the teaching of the
 14 Roman Catholic Church, including with respect to the Sacrament of Confession and sacramental
 15 seal, as articulated in the declaration of Archbishop Paul D. Etienne.

16 4. As a priest of the Archdiocese of Seattle, I am required to, and do, adhere to the
 17 policies of the Archdiocese of Seattle concerning the reporting of child abuse and neglect.
 18 Pursuant to those polices, I am required to, and do, report to proper law enforcement agencies or
 19 the department of children, youth, and families whenever I have reasonable cause to believe child
 20 abuse or neglect has occurred. The sole exception to this reporting requirement is information that
 21 I learn in the confessional and protected by the sacramental seal.

22 5. Moreover, because absolution given by a priest requires true contrition for all
 23 confessed sins, I could counsel any penitent disclosing child abuse or neglect to self-report and
 24 obtain the necessary temporal intervention and help. If I suspect based on what is disclosed during
 25 confession that the penitent is suffering from abuse or neglect, the penitent has engaged in abuse
 26 or neglect, or some third party has engaged in abuse or neglect, I could invite the penitent for
 27 counseling outside of the Sacrament of Confession. If the penitent were to agree to such

1 counseling and I were to learn information in that non-sacramental counseling providing me with
2 reasonable cause to believe abuse or neglect has been committed, I am obligated to, and would,
3 report that suspected abuse or neglect to proper law enforcement agencies or the department of
4 children, youth, and families.

5 6. Given the intrusion on the sacramental seal and my sincerely held religious belief
6 in the teaching of the Roman Catholic Church regarding the sacramental seal, I will not comply
7 with the amendments to RCW § 26.44.030 effected by Senate Bill 5375—to the point of going to
8 jail or incurring a fine or civil liability.

* * *

I declare under penalty of perjury that the foregoing is true and correct.

Eugene M. Feuerstein

Gary M. Zender

EXECUTED this 5th day of June, 2025, at Seattle, Washington.